

In the District Court of the fourth judicial district,
 County of ~~Wasatch~~^{Utah}, State of Utah.

Provo Reservoir Company, a corporation, vs. Provo City, et al.	Plaintiff, vs. Defendants.
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Now comes John A. Johnston, one of the defendants in the above entitled action and in answer to the complaint of the plaintiff on file herein admits, denies and affirms the following:

I. Defendant has no information or belief sufficient to enable him to otherwise admit or deny upon the second defendant paragraphs one of said complaint and this defendant denies paragraphs thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six and thirty-seven of said complaint.

This defendant denies generally and specifically each and every allegation in the plaintiff's complaint contained, notwithstanding specifically admitted.

II. Defendant admits paragraphs two to twenty-eight, inclusive, and admits paragraphs 36 and 37 of said complaint.

Further answering said complaint, as a defense thereto and as a second defense affirms and of this defendant affirms as follows:

I. That the defendant is the owner in fee of 80 acres of land in Salt Lake county, state of Utah, and adjacent to said Provo River, which land was and still is barren and unproductive of agricultural crops without artificial irrigation, but also indicated said lands produce abundantly all kinds of agricultural crops.

II. Less than thirty years ago this defendant, his mother and his brother in interest, for the purpose of securing said lands from the then barren condition and rendering the property more valuable, by means of dam and diversion ditch and appropriated thereon quantity of the therefore unappropriated waters of the said Provo River and the irrigation to and upon said lands for the purpose and irrigation and purposes, and thereby carried water thence to excess upon such quantity of agricultural crops and to excess sufficient

value; that at the time said water was diverted from said river by this defendant as aforesaid the same had not been appropriated by any other person or persons whomsoever.

3. That this defendant, his grantors and predecessors in interest have continued from year to year during the irrigation season of each and every year from the time of the first diversion of said water to use and apply the same upon the aforesaid lands for irrigation purposes and also to use the same for domestic and culinary purposes; that the irrigation season commences about the 15th day of March and ends about the first day of November of each and every year.

4. That the quantity of water of said river and its tributaries to which this defendant is entitled and which has been and is necessarily used by the defendant, his grantors and predecessors in interest since the first appropriation thereof in above set forth is a volume of water flowing _____ cubic foot per

5. That this defendant, his grantors and predecessors in interest have for more than 30 years used all of said water so originally appropriated as aforesaid, openly, publicly, notoriously, uncontrovertedly and adversely against all the world, and particularly the plaintiff herein, and said use has been and is reasonably necessary for the purposes herein set forth.

6. That on the 5th day of May 1899, in the District Court of the Fourth Judicial District of the State of Utah, sitting in and for Sanpete county, in an action wherein the Sanpete Irrigation Company and others were plaintiffs and Edward Fulton and others were defendants, wherein the waters of said Provo River were involved, a decree was made and entered wherein this defendant and his predecessors in interest were decreed such amount of the waters of said river as was necessary to irrigate his said land up to about the first day of July in each year, during what is known as the high water period, and after the mid high water period was gone then this defendant and his predecessors were awarded by said decree _____ cubic feet of water per _____ and that said decree is now in full force and effect.

5. That during the normal or low water period of each year to dig and other defendant into the bed of said river, diverting an irrigation ditch and divert all or practically all of the water therethrough at his point where defendant diversion lies made, and defendant has no valid river bed for more than twenty-five years last past and that the plaintiff has no right to use said river bed for the purpose of conveying water except in a proper manner and such as this court shall order.

6. That the plaintiff claims and asserts sole right and interest in and to the said waters and river bed adverse to this defendant, and the plaintiff has heretofore diverted said waters from this defendant, and used said river bed without authority and in violation of the rights of the defendant's rights, and the defendant is informed and believes and therefore alleges that the plaintiff continues to and will, unless restrained by decree of this court continue such unlawful and wrongful diversion of the said waters and use said river bed to the great damage and injury of this defendant.

Therefore defendant prays judgment:

1. That the plaintiff take nothing by its action herein.
2. That the defendant be adjudged and decreed to be the owner of and entitled to the use of a volume and quantity of the waters of said river flowing cubic foot per second in his ditch(es) without interruption, and that the defendant's title thereto be declared good and valid and that the same be quieted as against the plaintiff and that the plaintiff be forever restrained, and enjoined from intercepting any claim whatever of, in or to said waters and from diverting and obstructing the same.
3. That the plaintiff be required to place snaring devices and arrangements that it can use the bed of said river for the purpose of carrying its water therein with its cost to this defendant.
4. That the rights of the defendant as fixed and determined by the decree of this court of 29th July, be confirmed and that no part of the waters of said river be taken by the defendant for the purpose to irrigate his land and for domestic uses.
5. Defendant prays for nominal relief.
6. Defendant prays for his costs herein expended.

State of Utah
County of Sanpete

J. H. McDonald
Attorney for the defendant.

John A. Johnston Being duly sworn, on my honor and says that he is the defendant above named, that he has read the foregoing answer and known the contents thereof, that the same is true of his own knowledge, except as to matters therein mentioned upon information and belief and as to those matters he certifies to believe the same to be true.

John A. Johnston and witness to before me this 3d day of July 1917,

J. H. McDonald
Attorney for the



July 23 1917,

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Provo Reservoir Co
1878.
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Provo City et al
defd.

cause of John W
Johnson.

IN DIST. COURT
UTAH CO., UTAH
RECEIVED
MAY 8 - 1914
W. R. Bond, Clerk
A. M. Chapman, Deputy

Received a copy of the
minutes May 8, 1914

Just Evans
one of the -

W. R. Bond